

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TIMOTHY MONTILEONE, RICK A.
FIRMAND, THOMAS W. FURLONG, JR.,
KEVIN BLADOW and CLAYTON
THYGERSON, *Individually and on behalf of all
others similarly situated,*

Plaintiffs,

vs.

AAMCO TRANSMISSION, INC., AMERICAN
CAPITAL, LTD, AMERICAN DRIVELINE
SYSTEMS, INC., AMERICAN DRIVELINE
CENTERS, INC., MALON WILKUS, BRET
BERO, MARC GRAHAM, MIKE SUMSKY,
BRIAN O'DONNELL, TODD LEFF and
KEITH MORGAN,

Defendants.

Case No. 13-cv-1217-JPG-SCW

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiffs' stipulation of dismissal (Doc. 40) which the Court construes as a notice of dismissal. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) a plaintiff may dismiss a defendant without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Here, the remaining defendants have filed neither an answer nor a motion for summary judgment. Accordingly, this case is dismissed with prejudice against defendant Malon Wilkus and dismissed without prejudice against the remaining defendants. The Court **DENIES as moot** the remaining motions in this case and **DIRECTS** the Clerk of Court to close this case.

IT IS SO ORDERED.

DATED: April 8, 2014

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE